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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,554	03/28/2001	Masanori Kubo	1081.1112	9445

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EXAMINER
CHANKONG, DOHM

ART UNIT	PAPER NUMBER
2152	

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
		09/818,554	KUBO, MASANORI
Office Action Summary		Examiner	Art Unit
		Dohm Chankong	2152

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>31 January 2006</u>.

2a) ☒ This action is **FINAL.**   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1,3-18 and 20* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1, 3-18 and 20* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1>   This action is in response to Applicant's amendment. Claims 1, 15 and 18 are amended.

Claim 20 is added. Claims 1, 3-18 and 20 are presented for further examination.

2>   This is a final rejection.

Response to Arguments

3>   Applicant's arguments filed 1.31.2006 have been fully considered but they are not

persuasive. Applicant's amendment also does not patentably distinguish the claimed

invention over the prior art.

Prior art, Yano and Lee, disclose suspending user requests.

Applicant argues that Yano is contradictory to the claimed invention because despite

disclosing placing users in a waiting queue to gain access to a service, Yano discloses that

users are later required to re-send their request in order to establish connection. Applicant's

remarks, pg. 7, ¶4. The Office respectfully disagrees for two reasons.

First, the section to which Applicant refers is clearly a different embodiment of

Yano's invention. Applicant states that the cited functionality of having to re-send a request

is within Yano's third embodiment, which discloses a waiting queue. However, this is

inaccurate. The functionality cited by Applicant is in Yano's first embodiment of his

invention. The third embodiment discloses utilizing a waiting queue and in no way specifies

that a user must re-send his access request to establish a connection. Yano discloses that the

user may obtain access information so as to obtain a hint when the service will be available [column 9 «lines 36-45»]. This functionality is further discussed by Lee who discloses that access information is supplied to users so they will not leave the queue [column 1 «lines 31-34»].

Second, to construe Yano's waiting queue in the manner asserted by Applicant contravenes what would have been known to one of ordinary skill in the art. As asserted by Applicant, when placed in a waiting queue, a user would still have to re-send an access request. Not only is this not supported by Yano, but is inapposite to the principles of utilizing a queuing system. For example, Lee further discusses the benefits of a queuing system whereby a user simply waits until it is his turn; that is, his issued place in line (access number) is equal to the number being served by the service [see Lee, column 4 «lines 31-50» | column 6 «lines 4-19»]. Lee further discloses that the user is automatically connected to the service when his position (access number) in the queue is to equal to the access number to be serviced [column 3 «lines 10-14»]. One of ordinary skill in the art would understand that once placed in the queue, the user has to take no further action to be connected to the service and only need to wait until his position in the queue is equal to the number being served by the service. Thus, Yano and Lee disclose suspending the user requests and then automatically connecting the client when the service becomes accessible, as determined when said access number becomes less than or equal to said submitted access number.

Yano and Lee disclose issuing an access number that is unique for each access request.

Applicant also introduces a new limitation further defining the access number, whereby the number now must be unique for each access request. This functionality is disclosed by Yano and Lee. Claim limitations are given their broadest reasonable interpretation consistent with the specification. MPEP §2111.

Here, Applicant's specification discloses one possible interpretation of "access number" as the user's position in the queue. See Applicant's Figure 3. Applicant's disclosure further states: "[A] user sends an access request...[and] is issue[d] a unique access number...the access number means the total number of access requests for this service provision system." Applicant's specification, pg. 8, lines 3-10. The teachings of Yano and Lee are consistent with this interpretation. Yano discloses utilizing a waiting queue [column 8 «lines 57-62»]. Lee discloses that users in a queue are assigned a unique number as their place within the queue dependent on the total number of access requests for the service provision system [column 2 «lines 63-68» | column 3 «lines 1-14» | column 4 «lines 39-42»]. As one of ordinary skill in the art would realize, a waiting queue is dependent on its users having uniquely assigned numbers so that the users can be properly serviced in the order that they were placed in the queue. The waiting queue system would be deficient if two users shared the same access number in the queue. Thus, Yano and Lee disclose issuing an access number that is unique for each access request.

Conclusion

For the foregoing reasons, Applicant's argument and amendments of claims 1, 15 and 18 are not persuasive.

4> The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action, filed 10.31.2005.

5> Claims 1, 7 and 14-17 are rejected under 35 U.S.C § 103(a) as being unpatentable over Yano et al, U.S Patent No. 6.088.737 ["Yano"], in view of Lee, U.S Patent No. 4.788.715.

6> Claim 3 is rejected under 35 U.S.C 103(a) as being unpatentable over Yano and Lee, in view of Wayne et al, U.S Patent No. 5,006,983 ["Wayne"].

7> Claim 4 is rejected under 35 U.S.C 103(a) as being unpatentable over Yano and Lee, in view of MacDonald et al, U.S Patent No. 5.867,572 ["MacDonald"].

8> Claim 5 is rejected under 35 U.S.C § 103(a) as being unpatentable over Yano and Lee, in view of Sundaresan et al, U.S Patent Publication 2002|0101881 ["Sundaresan"].

9> Claim 8 is rejected under 35 U.S.C § 103(a) as being unpatentable over Yano and Lee, in view of Whitt, U.S Patent No. 6.023.681.

10>   Claims 9 is rejected under 35 U.S>C 103(a) as being unpatentable over Yano and Lee in view of Phaal, U.S Patent No. 6,006,269.

· 11>   Claims 10 and 11 are rejected under 35 U.S.C 103(a) as being unpatentable over Yano and Lee, in view of Suzuki et al, U.S Patent No. 6,470,323 ["Suzuki"].

12>   Claim 12 is rejected under 35 U.S.C 103(a) as being unpatentable over Yano and Lee, in view of Suzuki, in further view of MacDonald.

13>   Claim 13 is rejected under 35 U.S.C 103(a) as being unpatentable over Yano and Lee, in view Suzuki in further view of Sundaresan.

14>   Claim 18 is rejected under 35 U.S.C § 103(a) as being unpatentable over MacDonald, in view of Yano, in further view of Lee.

15>   The non-final rejection, filed 10.31.2005 is incorporated by reference. New limitations to claims 1, 15 and 18 are addressed in detail in paragraph 3 of this action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

16>   Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

        a.   Claim 20 is unclear: "removing the access request from said temporarily

        suspending". It is unclear from what the access request is removed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art
> are such that the subject matter as a whole would have been obvious at the time the invention was made to a
> person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

17>   Claim 20 is rejected under 35 U.S.C § 103(a) as being unpatentable over Yano and Lee.

18>   Yano discloses a method of connecting a client with a server, comprising:

        temporarily suspending an access request from the client and assigning a unique

access number to the access request upon determining that the server is inaccessible due to a

predetermined number of current accesses to the server [column 8 «line 53» to column 9 «line

6»]; and

        displaying a periodically updated list of the current accesses including uncompleted

requests using the client upon suspending the access request [Figure 4].

Yano does not expressly the periodically updated list is adjusted based on a load of the server and connecting the client with the server by removing the access request from said temporarily suspending when the server becomes accessible.

19>   Lee discloses connecting the client with the server by removing the access request from said temporarily suspending when the server becomes accessible [column 3 «lines 10-14»]. As Lee and Yano are both directed towards waiting queues, it would have been obvious to one of ordinary skill in the art to have reasonably inferred that the connection functionality in Lee's waiting queue is part of Yano's waiting queue. The purpose of the queue is to connect users when a service becomes available [see Lee, column 4 «lines 55-59»].

Lee also discloses adjusting the updated list based on a load of the server [column 2 «lines 6-10» | column 5 «lines 15-48» where: Lee discloses updating the list based on new traffic or when users leave the service]. It would have been obvious to modify Yano with Lee's teachings to ensure that the updated list is accurately determined based on current service usage.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within
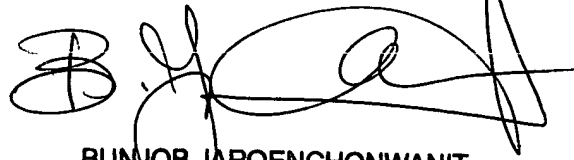
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Thursday [7:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BUNJOB JAROENCHONWANIT
SUPERVISORY PATENT EXAMINER

DC